



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3420

Introduced 2/14/2014, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

5 ILCS 315/14

from Ch. 48, par. 1614

Amends the Illinois Public Labor Relations Act. Sets forth provisions regarding arbitration proceedings for security employee, peace officer, and fire fighter disputes before an arbitrator (rather than an arbitration panel). Deletes a provision that within 10 days after a request for arbitration has been made, the employer shall choose a delegate and the employees' exclusive representative shall choose a delegate to a panel of arbitration. Provides that the arbitration hearing shall be held at a location determined by the parties or, if the parties are unable to agree to a location, the offices of the Board. Deletes a provision that the delegates, if public officers or employees, shall continue on the payroll of the public employer without loss of pay.

LRB098 19483 OMW 54655 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Section 14 as follows:

6 (5 ILCS 315/14) (from Ch. 48, par. 1614)

7 Sec. 14. Security Employee, Peace Officer and Fire Fighter
8 Disputes.

9 (a) In the case of collective bargaining agreements
10 involving units of security employees of a public employer,
11 Peace Officer Units, or units of fire fighters or paramedics,
12 and in the case of disputes under Section 18, unless the
13 parties mutually agree to some other time limit, mediation
14 shall commence 30 days prior to the expiration date of such
15 agreement or at such later time as the mediation services
16 chosen under subsection (b) of Section 12 can be provided to
17 the parties. In the case of negotiations for an initial
18 collective bargaining agreement, mediation shall commence upon
19 15 days notice from either party or at such later time as the
20 mediation services chosen pursuant to subsection (b) of Section
21 12 can be provided to the parties. In mediation under this
22 Section, if either party requests the use of mediation services
23 from the Federal Mediation and Conciliation Service, the other

1 party shall either join in such request or bear the additional
2 cost of mediation services from another source. The mediator
3 shall have a duty to keep the Board informed on the progress of
4 the mediation. If any dispute has not been resolved within 15
5 days after the first meeting of the parties and the mediator,
6 or within such other time limit as may be mutually agreed upon
7 by the parties, either the exclusive representative or employer
8 may request of the other, in writing, arbitration, and shall
9 submit a copy of the request to the Board.

10 (b) (Blank). ~~Within 10 days after such a request for~~
11 ~~arbitration has been made, the employer shall choose a delegate~~
12 ~~and the employees' exclusive representative shall choose a~~
13 ~~delegate to a panel of arbitration as provided in this Section.~~
14 ~~The employer and employees shall forthwith advise the other and~~
15 ~~the Board of their selections.~~

16 (c) Within 7 days after the request of either party, the
17 parties shall request a panel of impartial arbitrators from
18 which they shall select the arbitrator ~~neutral chairman~~
19 according to the procedures provided in this Section. If the
20 parties have agreed to a contract that contains a grievance
21 resolution procedure as provided in Section 8, the arbitrator
22 ~~chairman~~ shall be selected using their agreed contract
23 procedure unless they mutually agree to another procedure. If
24 the parties fail to notify the Board of their selection of the
25 arbitrator ~~neutral chairman~~ within 7 days after receipt of the
26 list of impartial arbitrators, the Board shall appoint, at

1 random, an arbitrator ~~a neutral chairman~~ from the Illinois
2 Public Employees Mediation/Arbitration Roster ~~list~~. In the
3 absence of an agreed contract procedure for selecting an
4 impartial arbitrator, either party may request a panel from the
5 Board. Within 7 days of the request of either party, the Board
6 shall select from the Public Employees Labor Mediation Roster 7
7 persons who are on the labor arbitration panels of either the
8 American Arbitration Association or the Federal Mediation and
9 Conciliation Service, or who are members of the National
10 Academy of Arbitrators, as nominees for impartial arbitrator of
11 the arbitration panel. The parties may select an individual on
12 the list provided by the Board or any other individual mutually
13 agreed upon by the parties. Within 7 days following the receipt
14 of the list, the parties shall notify the Board of the person
15 they have selected. Unless the parties agree on an alternate
16 selection procedure, they shall alternatively strike one name
17 from the list provided by the Board until only one name
18 remains. A coin toss shall determine which party shall strike
19 the first name. If the parties fail to notify the Board in a
20 timely manner of their selection of an arbitrator ~~for neutral~~
21 ~~chairman~~, the Board shall appoint an arbitrator ~~a neutral~~
22 ~~chairman~~ from the Illinois Public Employees
23 Mediation/Arbitration Roster.

24 (d) The arbitrator ~~chairman~~ shall call a hearing to begin
25 within 60 ~~15~~ days and give reasonable notice of the time and
26 place of the hearing. The hearing shall be held at a location

1 determined by the parties or, if the parties are unable to
2 agree to a location, the offices of the Board or at such other
3 location as the Board deems appropriate. The arbitrator
4 ~~chairman~~ shall preside over the hearing and shall take
5 testimony. Any oral or documentary evidence and other data
6 deemed relevant by the arbitrator ~~arbitration panel~~ may be
7 received in evidence. The proceedings shall be informal.
8 Technical rules of evidence shall not apply and the competency
9 of the evidence shall not thereby be deemed impaired. A
10 verbatim record of the proceedings shall be made and the
11 arbitrator shall arrange for the necessary recording service.
12 Transcripts may be ordered at the expense of the party ordering
13 them, but the transcripts shall not be necessary for a decision
14 by the arbitrator ~~arbitration panel~~. The expense of the
15 proceedings, including a fee for the arbitrator ~~chairman~~, shall
16 be borne equally by each of the parties to the dispute. ~~The~~
17 ~~delegates, if public officers or employees, shall continue on~~
18 ~~the payroll of the public employer without loss of pay.~~ The
19 hearing conducted by the arbitrator ~~arbitration panel~~ may be
20 adjourned from time to time, but unless otherwise agreed by the
21 parties, shall be concluded within 60 ~~30~~ days of the time of
22 its commencement. ~~Majority actions and rulings shall~~
23 ~~constitute the actions and rulings of the arbitration panel.~~
24 Arbitration proceedings under this Section shall not be
25 interrupted or terminated by reason of any unfair labor
26 practice charge filed by either party at any time, unless the

1 unfair labor practice charge alleges a violation of item (4) of
2 subsection (a) or item (4) of subsection (b) of Section 10 of
3 this Act.

4 (e) The arbitrator ~~arbitration panel~~ may administer oaths,
5 require the attendance of witnesses, and the production of such
6 books, papers, contracts, agreements and documents as may be
7 deemed by it material to a just determination of the issues in
8 dispute, and for such purpose may issue subpoenas. If any
9 person refuses to obey a subpoena, or refuses to be sworn or to
10 testify, or if any witness, party or attorney is guilty of any
11 contempt while in attendance at any hearing, the arbitrator
12 ~~arbitration panel~~ may, or the attorney general if requested
13 shall, invoke the aid of any circuit court within the
14 jurisdiction in which the hearing is being held, which court
15 shall issue an appropriate order. Any failure to obey the order
16 may be punished by the court as contempt.

17 (f) At any time before the rendering of an award, the
18 arbitrator ~~chairman of the arbitration panel~~, if he or she is
19 of the opinion that it would be useful or beneficial to do so,
20 may remand the dispute to the parties for further collective
21 bargaining for a period not to exceed 4 2 weeks. If the dispute
22 is remanded for further collective bargaining the time
23 provisions of this Act shall be extended for a time period
24 equal to that of the remand. The arbitrator ~~chairman of the~~
25 ~~panel of arbitration~~ shall notify the Board of the remand.

26 (g) Thirty days ~~At or~~ before the ~~conclusion of the~~ hearing

1 held pursuant to subsection (d), the arbitrator ~~arbitration~~
2 ~~panel~~ shall identify the ~~economic~~ issues in dispute, and direct
3 each of the parties to submit, 15 days prior to the hearing to
4 be held pursuant to subsection (d) ~~within such time limit as~~
5 ~~the panel shall prescribe~~, to the arbitrator ~~arbitration panel~~
6 and to each other its last, best, and final offer of settlement
7 on each ~~economic~~ issue. The determination of the arbitrator
8 ~~arbitration panel~~ as to the issues in dispute and as to which
9 of these issues are economic shall be conclusive. The
10 arbitrator ~~arbitration panel~~, within 60 ~~30~~ days after the
11 conclusion of the hearing, or such further additional periods
12 to which the parties may agree, shall make written findings of
13 fact and promulgate a written opinion and shall mail or
14 otherwise deliver a true copy thereof to the parties and their
15 representatives and to the Board. As to each economic issue,
16 the arbitrator ~~arbitration panel~~ shall adopt the last offer of
17 settlement which, in the opinion of the arbitrator ~~arbitration~~
18 ~~panel~~, more nearly complies with the applicable factors
19 prescribed in subsection (h). The findings, opinions and order
20 as to all other issues shall be based upon the applicable
21 factors prescribed in subsection (h).

22 (h) Where there is no agreement between the parties, or
23 where there is an agreement but the parties have begun
24 negotiations or discussions looking to a new agreement or
25 amendment of the existing agreement, and wage rates or other
26 conditions of employment under the proposed new or amended

1 agreement are in dispute, the arbitrator ~~arbitration panel~~
2 shall base its findings, opinions and order upon the following
3 factors, as applicable:

4 (1) The lawful authority of the employer.

5 (2) Stipulations of the parties.

6 (3) The interests and welfare of the public and the
7 financial ability of the unit of government to meet those
8 costs.

9 (4) Comparison of the wages, hours and conditions of
10 employment of the employees involved in the arbitration
11 proceeding with the wages, hours and conditions of
12 employment of other employees performing similar services
13 and with other employees generally:

14 (A) In public employment in comparable
15 communities.

16 (B) In private employment in comparable
17 communities.

18 (5) The average consumer prices for goods and services,
19 commonly known as the cost of living.

20 (6) The overall compensation presently received by the
21 employees, including direct wage compensation, vacations,
22 holidays and other excused time, insurance and pensions,
23 medical and hospitalization benefits, the continuity and
24 stability of employment and all other benefits received.

25 (7) Changes in any of the foregoing circumstances
26 during the pendency of the arbitration proceedings.

1 (8) Such other factors, not confined to the foregoing,
2 which are normally or traditionally taken into
3 consideration in the determination of wages, hours and
4 conditions of employment through voluntary collective
5 bargaining, mediation, fact-finding, arbitration or
6 otherwise between the parties, in the public service or in
7 private employment.

8 (i) In the case of peace officers, the arbitration decision
9 shall be limited to wages, hours, and conditions of employment
10 (which may include residency requirements in municipalities
11 with a population under 1,000,000, but those residency
12 requirements shall not allow residency outside of Illinois) and
13 shall not include the following: i) residency requirements in
14 municipalities with a population of at least 1,000,000; ii) the
15 type of equipment, other than uniforms, issued or used; iii)
16 manning; iv) the total number of employees employed by the
17 department; v) mutual aid and assistance agreements to other
18 units of government; and vi) the criterion pursuant to which
19 force, including deadly force, can be used; provided, nothing
20 herein shall preclude an arbitration decision regarding
21 equipment or manning levels if such decision is based on a
22 finding that the equipment or manning considerations in a
23 specific work assignment involve a serious risk to the safety
24 of a peace officer beyond that which is inherent in the normal
25 performance of police duties. Limitation of the terms of the
26 arbitration decision pursuant to this subsection shall not be

1 construed to limit the factors upon which the decision may be
2 based, as set forth in subsection (h).

3 In the case of fire fighter, and fire department or fire
4 district paramedic matters, the arbitration decision shall be
5 limited to wages, hours, and conditions of employment (which
6 may include residency requirements in municipalities with a
7 population under 1,000,000, but those residency requirements
8 shall not allow residency outside of Illinois) and shall not
9 include the following matters: i) residency requirements in
10 municipalities with a population of at least 1,000,000; ii) the
11 type of equipment (other than uniforms and fire fighter turnout
12 gear) issued or used; iii) the total number of employees
13 employed by the department; iv) mutual aid and assistance
14 agreements to other units of government; and v) the criterion
15 pursuant to which force, including deadly force, can be used;
16 provided, however, nothing herein shall preclude an
17 arbitration decision regarding equipment levels if such
18 decision is based on a finding that the equipment
19 considerations in a specific work assignment involve a serious
20 risk to the safety of a fire fighter beyond that which is
21 inherent in the normal performance of fire fighter duties.
22 Limitation of the terms of the arbitration decision pursuant to
23 this subsection shall not be construed to limit the facts upon
24 which the decision may be based, as set forth in subsection
25 (h).

26 The changes to this subsection (i) made by Public Act

1 90-385 (relating to residency requirements) do not apply to
2 persons who are employed by a combined department that performs
3 both police and firefighting services; these persons shall be
4 governed by the provisions of this subsection (i) relating to
5 peace officers, as they existed before the amendment by Public
6 Act 90-385.

7 To preserve historical bargaining rights, this subsection
8 shall not apply to any provision of a fire fighter collective
9 bargaining agreement in effect and applicable on the effective
10 date of this Act; provided, however, nothing herein shall
11 preclude arbitration with respect to any such provision.

12 (j) Arbitration procedures shall be deemed to be initiated
13 by the filing of a letter requesting mediation as required
14 under subsection (a) of this Section. The commencement of a new
15 municipal fiscal year after the initiation of arbitration
16 procedures under this Act, but before the arbitration decision,
17 or its enforcement, shall not be deemed to render a dispute
18 moot, or to otherwise impair the jurisdiction or authority of
19 the arbitrator ~~arbitration panel~~ or his or her ~~its~~ decision.
20 Increases in rates of compensation awarded by the arbitrator
21 ~~arbitration panel~~ may be effective only at the start of the
22 fiscal year next commencing after the date of the arbitration
23 award. If a new fiscal year has commenced either since the
24 initiation of arbitration procedures under this Act or since
25 any mutually agreed extension of the statutorily required
26 period of mediation under this Act by the parties to the labor

1 dispute causing a delay in the initiation of arbitration, the
2 foregoing limitations shall be inapplicable, and such awarded
3 increases may be retroactive to the commencement of the fiscal
4 year, any other statute or charter provisions to the contrary,
5 notwithstanding. At any time the parties, by stipulation, may
6 amend or modify an award of arbitration.

7 (k) Orders of the arbitrator ~~arbitration panel~~ shall be
8 reviewable, upon appropriate petition by either the public
9 employer or the exclusive bargaining representative, by the
10 circuit court for the county in which the dispute arose or in
11 which a majority of the affected employees reside, but only for
12 reasons that the arbitrator ~~arbitration panel~~ was without or
13 exceeded its statutory authority; the order is arbitrary, or
14 capricious; or the order was procured by fraud, collusion or
15 other similar and unlawful means. Such petitions for review
16 must be filed with the appropriate circuit court within 90 days
17 following the issuance of the arbitration order. The pendency
18 of such proceeding for review shall ~~not~~ automatically stay the
19 order of the arbitrator ~~arbitration panel~~. The party against
20 whom the final decision of any such court shall be adverse, if
21 such court finds such appeal or petition to be frivolous, shall
22 pay reasonable attorneys' fees and costs to the successful
23 party as determined by said court in its discretion. If said
24 court's decision affirms the award of money, such award, if
25 retroactive, shall bear interest at the rate of 12 percent per
26 annum from the effective retroactive date.

1 (1) During the pendency of proceedings before the
2 arbitrator ~~arbitration panel~~, existing wages, hours, and other
3 conditions of employment shall not be changed by action of
4 either party without the consent of the other but a party may
5 so consent without prejudice to his rights or position under
6 this Act. The proceedings are deemed to be pending before the
7 arbitrator ~~arbitration panel~~ upon the initiation of
8 arbitration procedures under this Act.

9 (m) Security officers of public employers, and Peace
10 Officers, Fire Fighters and fire department and fire protection
11 district paramedics, covered by this Section may not withhold
12 services, nor may public employers lock out or prevent such
13 employees from performing services at any time.

14 (n) All of the terms decided upon by the arbitrator
15 ~~arbitration panel~~ shall be included in an agreement to be
16 submitted to the public employer's governing body for
17 ratification and adoption by law, ordinance or the equivalent
18 appropriate means.

19 The governing body shall review each term decided by the
20 arbitrator ~~arbitration panel~~. If the governing body fails to
21 reject one or more terms of the arbitrator's ~~arbitration~~
22 ~~panel's~~ decision by a 3/5 vote of those duly elected and
23 qualified members of the governing body, within 20 days of
24 issuance, or in the case of firefighters employed by a state
25 university, at the next regularly scheduled meeting of the
26 governing body after issuance, such term or terms shall become

1 a part of the collective bargaining agreement of the parties.
2 If the governing body affirmatively rejects one or more terms
3 of the arbitrator's ~~arbitration panel's~~ decision, it must
4 provide reasons for such rejection with respect to each term so
5 rejected, within 20 days of such rejection and the parties
6 shall return to the arbitrator ~~arbitration panel~~ for further
7 proceedings and issuance of a supplemental decision with
8 respect to the rejected terms. Any supplemental decision by the
9 arbitrator ~~an arbitration panel~~ or other decision maker agreed
10 to by the parties shall be submitted to the governing body for
11 ratification and adoption in accordance with the procedures and
12 voting requirements set forth in this Section. The voting
13 requirements of this subsection shall apply to all disputes
14 submitted to arbitration pursuant to this Section
15 notwithstanding any contrary voting requirements contained in
16 any existing collective bargaining agreement between the
17 parties.

18 (o) If the governing body of the employer votes to reject
19 the arbitrator's ~~panel's~~ decision, the parties shall return to
20 the arbitrator ~~panel~~ within 30 days from the issuance of the
21 reasons for rejection for further proceedings and issuance of a
22 supplemental decision. All reasonable costs of such
23 supplemental proceeding including the exclusive
24 representative's reasonable attorney's fees, as established by
25 the Board, shall be paid by the employer.

26 (p) Notwithstanding the provisions of this Section the

1 employer and exclusive representative may agree to submit
2 unresolved disputes concerning wages, hours, terms and
3 conditions of employment to an alternative form of impasse
4 resolution.

5 (Source: P.A. 98-535, eff. 1-1-14.)